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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/681,341	03/21/2001	Jeffrey A. Anderson	Case No. 01-1006	5256

20306 7590 09/24/2002

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EXAMINER

PAPE, JOSEPH

ART UNIT

PAPER NUMBER

3612

DATE MAILED: 09/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. <b>09/681,341</b>	Applicant(s) <b>Anderson et al.</b>
	Examiner <b>Joseph Pape</b>	Art Unit <b>3612</b>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)  Responsive to communication(s) filed on Aug 12, 2002

2a)  This action is FINAL. 2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

**Disposition of Claims**

4)  Claim(s) 1-47 is/are pending in the application.

4a) Of the above, claim(s) 40-47 is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-39 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on Mar 21, 2002 is/are a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.

2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)

4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)

5)  Notice of Informal Patent Application (PTO-152)

3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2

6)  Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Election/Restriction***

1. Claims 40-47 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made without traverse in Paper No. 8/12/02.

### ***Drawings***

2. The drawings are objected to because, in Figure 4, the three layers are shown to be about the same thickness when the description sets forth that the thicknesses are very different. This renders Figure 4 to be inaccurate and misleading. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 U.S.C. § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Claims 8, 21, and 34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 8, 21, and 34 the recitation of the relative costs of the structural layer as compared to the inner and outer layers is vague and indefinite in that over time the costs of materials can change and the recitation of this relationship may no longer be accurate.

***Claim Rejections - 35 U.S.C. § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 13, 14, 24, 27, and 39 are rejected under 35 U.S.C. 102(b) as being anticipated by Curtis.

Curtis discloses the claimed invention including bumper beam 22, fascia 20 and energy absorbing member 14 which is integral with the fascia. The energy absorber being foamed urethane.

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***Claim Rejections - 35 U.S.C. § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2-11, 15-24 and 28-37, as understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Curtis in view of Wilson.

Curtis discloses the claimed invention except for the specific thickness of the structural layer of the fascia.

Curtis does disclose in column 3, line 17, that the fascia can be colored.

Wilson discloses a fascia construction resulting in a fascia thickness of below 2 mm and greater than 1.4 mm. Column 2, lines 31-40. Also, in column 1, lines 22-24, Wilson discloses that it is known in the prior art to paint the fascia to match the other "Class A" finish exterior metal body components.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to construct the fascia of Curtis from materials disclosed by Wilson resulting in a fascia thickness, defined as the "structural layer" in the claims, between 1.5 and 2.0 mm as an alternate fascia construction resulting in a thin yet structurally stable fascia with lower material costs.

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Further, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a layer of paint and a clear top coat material on the fascia of Curtis, as modified, as taught by Wilson so that the fascia will match other "Class A" finish exterior metal body components of the vehicle.

Re claims 2, 15, and 28 given that the thickness of the structural layer of Curtis, as modified, is the same as the recited thickness and, the addition of a paint layer and a clear top coat layer is considered to result in an overall fascia thickness less than 3 mm because such layers are notoriously well known to total less than 1.0 mm.

Re claim 11, 24 and 37, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use recycled materials to make the structural layer of the fascia of Curtis, as twice modified, because it is notoriously well known to utilize recycled plastic materials when available for manufacturing cost savings.

9. Claims 12, 25, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Curtis in view of Carpenter.

Curtis discloses the claimed invention except for the energy absorber being foamed polypropylene.

Carpenter discloses that the use of either polypropylene foam or urethane foam is interchangeable in a vehicle bumper energy absorbing member. Column 5, lines 12-13.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to construct the energy absorber of Curtis out of polypropylene foam instead of urethane foam as taught by Carpenter as these materials are obvious functional equivalents.

*Conclusion*

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The remaining references show fascia's with multiple layers, specific thicknesses, and/or energy absorbers associated therewith that relate to the current invention as claimed.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph D. Pape whose telephone number is (703)308-3426.

**Any response to this action should be mailed to:**

Assistant Commissioner for Patents

Washington, D.C. 20231

**or faxed to:**

(703)305-7687, (for formal communications intended for entry)

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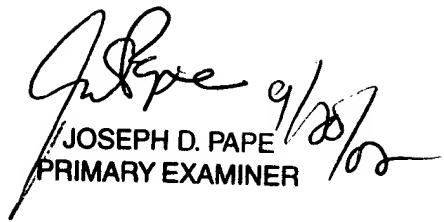
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or:

(703)308-3297, (for informal or draft communications, please clearly label "PROPOSED" or "DRAFT").

jdp

September 20, 2002

  
JOSEPH D. PAPE  
PRIMARY EXAMINER